IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11262 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11262 of 2001

MR AS PANDYA for Petitioner No. 1

MR MANISH A PANDYA for Petitioner No. 1

Mr.A.Y.Kogje, learned AGP for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 12/02/2002

ORAL JUDGEMENT

1. Rule. Mr.A.Y.Kogje, learned AGP waives service of rule on behalf of respondent. By consent rule is fixed forthwith.

2. During hearing Mr.Pandya appearing for the petitioner has taken me through the petition and the documents attached thereto. In this petition, the petitioner has prayed that time to occupy the premises, namely, Quarter No.F-1 at Meghaninagar, Ahmedabad be extended till 31.5.2002 on the grounds highlighted in the petition. The petitioner after retirement from the Government service has not handed over the quarter, namely, Quarter No.F-1 at Meghaninagar, Ahmedabad and accordingly the authority has to initiate proceedings under the Bombay Public Premises Act wherein the authority has passed an order of eviction directing the petitioner to hand over the vacant possession of the Quarter in question to the respondent - authority. Against the said order, the petitioner had filed appeal before the Principal Judge of the City Civil court, Ahmedabad and challenged the said order on several grounds.Before the learned Principal Judge, during hearing of the said Appeal, purshish Exh.12 was filed by the petitioner praying that time to occupy the quarter be granted on the ground that the petitioner is in search of alternative accommodation and also on the ground of monsoon and the petitioner has given up all the contentions raised in the Appeal. The Government Pleader had opposed the request made by the petitioner appellant by making an endorsement in the Purshish Exh.12. The learned Principal Judge has, considering the request made in the Purshish and by observing that since the monsoon season has started late and it is likely to continue till November 2000 and there are other Quarters also vacant in the Government Colony, where appellant is residing, allowed the Appeal partly and permitted the appellant to occupy the quarter upto 31st January 2001 by imposing condition that no further time will be extended and the petitioner appellant shall regularly pay the rent of the premises in question as per Rules and Regulations and accordingly disposed of the Appeal as per Judgment and Order dated 31.7.2000. The petitioner has accordingly approached this court by filing this petition on 1.12.2001 and prayed that on the grounds highlighted in the petition, the petitioner may be permitted to occupy the premises, namely, Government Quarter till 31.5.2001.

3. The affidavit in reply is filed on behalf of respondent by Shri H.J.Pandya, Deputy Executive Engineer, New Mental (R & B) Sub Division, Ahmedabad in detail showing that even after the retirement, the petitioner has not handed over the quarter and the authority has to initiate proceedings under the Gujarat Public Premises Eviction Act and the competent authority has directed the

petitioner to hand over the premises, namely, Quarter to the authority and the learned Principal Judge had also considering the Purshish filed by the petitioner -appellant granted time to hand over the premises by granting time upto 31.1.2001 by observing that no further time will be granted.

4. During hearing it was also brought to my notice about the judgment dated 31.1.2002 in Special Civil Application No.11325 of 2001 with connected matters wherein this court has only on humanitarian ground extended time prayed for in those petitions. Considering the contentions raised before me, in this petition, only on humanitarian ground I am inclined to dispose of this petition by granting time to occupy the premises, namely, Government Quarter upto 31.5.2002 on the following conditions.

(i) The petitioner shall file undertaking to this court incorporating that the petitioner shall hand over vacant and peaceful possession of the quarters in question to the respondent authority on or before 31.5.2002.

(ii) The petitioner shall clear all the arrears of rent, which was payable by the petitioner as per rules. Arrears of rent upto January 2002 to be deposited with the respondent authority before the end of February,2002.

(iii) The rent for the months of February, 2002 to May 2002 will be deposited regularly with the respondent authority at the end of each month.

(iv) The petitioner will not make any application for further extension of time.

5. Mr.Pandya,learned advocate appearing for the petitioner, has requested for time to file undertaking of petitioner upto 28th-February,2002. Considering the request to file undertaking, time is granted upto 28th-February,2002. It is also directed that petitioner shall furnish the copy of the undertaking to the respondent authority as well as to the office of the Government Pleader. If the undertaking is not filed within the stipulated time,the liberty is granted to the respondent authority to move this court for appropriate orders.

6. Accordingly this petition is disposed of.Rule is made absolute. However,there shall be no order as to

costs. This order is passed considering the facts made out in the present petition and only on humanitarian ground and the same will not be a precedent.

(D.K.Trivedi,J)

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